

## **Third Quarter 2002 Compliance & Enforcement Handbook Update**

### **Substantive Changes**

- 1) Chapter 15: Special Enforcement Considerations for Spills and Participation in the Voluntary Remediation Program
  - Added as C15
  - Boilerplate Action Update Letter (B1) changed to include “Awaiting outcome of participation in the Voluntary Remediation Program” as a status
  - Boilerplate Incident/Spill Report Form (B30) added
  - Boilerplate language to be included in the cover letter to an NOV for a spill (B31) added
  - Boilerplate Voluntary Remediation Program description (B32) added
  - Boilerplate NOV Closure Letter (for participation in the VRP) (B33) added
  - Table of Potential Arizona Legal Authorities/Violations Associated with Spills (M7) added
- 2) Boilerplate NOC and NOV Closure Letters (B14, B19, B20, and B27)
  - Will no longer be sent certified mail
- 3) Boilerplate NOV (Water Quality Permit Failure to Submit a Self-Monitoring Report)
  - Added as B34
  - Reference added to Chapter 7 (page 7-3)
- 4) Boilerplate Consent Order with Civil Administrative Penalty
  - Added as B35
  - Reference added to Chapter 6 (page 6-1)
- 5) Inspection Authorities Table (M5)
  - Biosolids/AZPDES inspection authorities added
- 6) Enforcement Authorities Table (M2)
  - Biosolids/AZPDES enforcement authorities added
- 7) ADDENDUM TO THE *CONSENT ORDER NEGOTIATION GUIDELINES* UNDERGROUND STORAGE TANK CORRECTIVE ACTIONS (G3)
  - The discussion about the State Assurance Fund has been changed to reflect not only the Arizona Administrative Code provisions, but also the statutory provisions
- 8) UST Inspections & Compliance Major/Minor Lists (L13 and L14)
  - See attached list
- 9) Chapter 7: Enforcement Escalation Procedures (C7)
  - Bullet added to explain that ADEQ will send a letter after receiving an inadequate NOC response, in compliance with A.R.S. § 41-1009(F) (page 7-9)
  - Appropriate ICE database requirements added (page 7-9)
- 10) Chapter 9: Enforcement Approval Procedures (C9)
  - Regional office Consent Order/Compliance Order/Abatement Order review and approval process added to account for the newly delegated authority to issue Compliance/Abatement Orders and enter Consent Orders (page 9-1)
- 11) Boilerplate Compliance/Abatement Order (B8) and Boilerplate Consent Order (B10)

- Regional office manager added to ADEQ signature block to account for newly delegated authority to issue Compliance/Abatement Orders and enter Consent Orders

#### Non-Substantive Changes

- 1) Boilerplates Changed to Reflect ADEQ's Change of Address (B1, B2, B5, B6, B8, B9, B10, B12, B13, B14, B15, B16, B17, B18, B19, B20, B22, B23, B25, B27, B29)
- 2) Enforcement Escalation Procedures (Chapter 7)
  - Copies of NOV's will be sent to appropriate county official(s) and any affected EJ community for solid waste, drinking water, wastewater violations (page 7-3, 7-9, 7-10) [Already stated in Handbook and policy, thus merely a clarification]
  - *NOV Closure Letter Sent to RP* and *Case Closed with NOV* changed to *NOV Closure Letter Sent to RP (case closure)* (page 7-6) [Change in ICE database]
  - *NOV Closure Letter Sent to RP* changed to *NOV Closure Letter Sent to RP (no case closure)* (page 7-6) [Change in ICE database]
  - "Once received by the responsible party, *NOV Reminder Letter Received by RP* must be entered as an action in the Case Screen." added (page 7-7) [Change in ICE database]
  - "and the date achieved must be entered for each compliance documentation requirement" added (pages 7-6, 7-8) [Change in ICE database]
  - "Immediately after a missed NOV deadline, *NOV Deadline Missed by RP* must be entered as an action in the Case Screen." added (page 7-8) [Change in ICE database]
  - "Once the CDM has been signed by the agency's compliance and enforcement coordinator, *Case Development Memorandum Completed* must be entered in the Case Screen." added (page 7-11) [Change in ICE database]
  - "Once an Assistant Attorney General has been assigned, *Assistant Attorney General Assigned* must be entered as an action and the name of the attorney must be entered as additional information in the Case Screen." added (page 7-8, 7-10, 7-11) [Change in ICE database]
  - "*Case Recommended* must be entered as an action in the Inspections Screen and the alleged violations, description of facts and compliance documentation requirements must be entered in the Case Screen." added (page 7-3, 7-4, 7-10, 7-11) [Reiteration of ICE database requirements at page 3-5]
  - "Once sent, *Stipulated Penalty Demand Letter Sent to RP* must be entered as an action in the Case Screen. Once received by the responsible party, *Stipulated Penalty Demand Letter Received by RP* must be entered as an action in the Case Screen. Once paid, *Stipulated Penalty Payment Received from RP* must be entered as an action in the Case Screen." added (page 7-11) [Change in ICE database]
  - If a responsible party has been issued a Compliance Order, Abatement Order, entered into a Consent Order, or is subject to a Civil Judgment and has violated the Order or Judgment, ADEQ will issue an NOV (page 7-8, 7-9, 7-10) [By definition, a violation of an Order or Judgment is SNC - thus merely a clarification with procedures for implementation]

- 3) Boilerplate Consent Order (B10)
  - Reservation of Rights
    - a) Modified to include statement that Consent Order does not resolve any liability the responsible party may have for civil penalties (page 5)  
[Already included in the Recitals provisions - thus merely a reiteration]
    - b) Clarification that subparagraph C only applies to UST-related Consent Orders
  - Status Reports - due dates changed from “receipt of this Consent Order” to “the effective date of this Consent Order” (page 2) [Receipt doesn’t make sense]
- 4) Special Enforcement Considerations for the UST Corrective Action Section (Chapter 14)
  - Administrative Order Violations - “The UST Corrective Action Section will consider the owner or operator’s response to the NOV when deciding whether to render an administrative decision withholding payment from the SAF for those cost that are the direct subject of the violation (when the owner or operator submits a request for payment). changed to “The UST Corrective Action Section will consider the owner or operator’s response to the NOV when deciding whether to render an administrative decision withholding payment from the SAF for those cost that are the direct subject of the violation *of a Consent Order* (when the owner or operator submits a request for payment).” (emphasis added). (page 14-3) [Clarification that statement only applies to violations of Consent Orders because a site that is subject to a Compliance Order is not eligible for SAF coverage through the life of the order, so the issue of withholding SAF payment due to the violation of the order is not an issue]
- 5) Appendix Table
  - Version dates modified to reflect changes made in this update
- 6) Boilerplate Termination of Administrative Order (B25)
  - Distribution list modified to mirror list for Administrative Orders

#### Typographical Errors Corrected

- 1) Boilerplate Termination of Administrative Order (B25)
  - Font changed from 11 to 12 for Hearing Administrator distribution block (page 2)
- 2) Boilerplate Consent Order (B10)
  - Underline for Findings of Fact Subsection corrected (page 2)
- 3) Water Pollution Control Minor Violations List (L18)
  - A.A.C. R18-9-A316(D)(2) changed to A.A.C. R18-9-C301(D)(2) (page 4)
  - A.A.C. R18-9-A316(D)(3) changed to A.A.C. R18-9-C301(D)(3) (page 5)
  - A.A.C. R18-9-A316(D)(3) changed to A.A.C. R18-9-C301(D)(3) (page 5)
  - A.A.C. R18-9-A316(D)(5) changed to A.A.C. R18-9-C301(D)(5) (page 5)
- 4) Reference to administrative order NOV cover letter language in context of Judgment or Decree violations removed (page 7-11)